

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

VERNA IP HOLDINGS, LLC,

Plaintiff,

v.

ALERT MEDIA, INC.,

Defendant.

C.A. No. 6:21-cv-00422-ADA

JURY TRIAL DEMANDED

**ALERT MEDIA, INC.’S OPPOSITION TO PLAINTIFF’S MOTION TO QUASH
NOTICE OF DEPOSITION OF WILLIAM P. RAMEY, III**

Defendant Alert Media, Inc. (“Alert Media” or “Defendant”) opposes Plaintiff’s Motion to Quash Notice of Deposition of William P. Ramey, III (“Motion”).

On August 22, 2023, this Court ordered Verna to pay \$48,076.50 in attorneys’ fees to Alert Media within 30 days. (Dkt. 63.) Verna has not complied with this order. Alert Media contacted counsel for Verna on September 25, 2023 and October 10, 2023 inquiring about compliance with the Court’s order. (Ex. 1, Emails fr Brown to Ramey.) Verna’s counsel did not respond to either email. On October 20, 2023 counsel for the parties were conferring regarding another case that Verna filed against Alert Media, and Alert Media again asked about the payment of attorneys’ fees in this case. (Ex. 2, Emails fr Conrad to Ramey at 1-2) Verna’s counsel again refused to provide any information about Verna’s failure to comply with the Court’s order or when Verna intended to comply. Following this failure to comply and refusal to respond to Alert Media’s inquires, Alert Media served three Rule 30(b)(1) deposition notices on William Ramey (trial counsel for Verna), Kermit Lopez (managing agent of Verna), and Luis Ortiz (managing agent of Verna).

Alert Media is entitled to post-judgment discovery to locate Verna’s assets and to identify any non-parties that should be joined for payment of the § 285 fee award. *See SAP Am., Inc. v.*

InvestPic, LLC, No. 3:16-CV-02689-K, 2021 WL 1102085 (N.D. Tex. Mar. 23, 2021) (relying on post-judgment discovery and explaining “[a]llowing a party to purposefully use a shell company to pursue patent infringement claims unacceptably circumvents that attorney fee provisions of § 285”); *see also Iris Connex, LLC v. Dell, Inc.*, 235 F.Supp.3d 826, 845-46 (E.D. Tex. 2017); *see also Ohio Cellular Prods. Corp. v. Adams USA, Inc.*, 175 F.3d 1343, 1349 (Fed. Cir. 1999) (reversed on independent due process grounds); *Machinery Corp. of America v. Gullfiber AB*, 774 F.2d 467, 475 (Fed. Cir. 1985).

In this case, Mr. William Ramey, trial counsel for Verna, has knowledge of the flow of money to Verna. Verna’s Motion admits this: “it is true that Ramey LLP can testify about settlement proceeds it received and how they were distributed.” (Mot. at 2.) As such, Alert Media is entitled to discovery to investigate if joinder of a party who is an active participant in the alleged wrongdoing is proper and necessary under Rule 19, including trial counsel. *SAP*, 2021 WL 1102085 at *8 (joining Shore Chan De Pumpo LLP as liable for fees under § 285). The deposition of trial counsel to aid in this effort is proper. *Iris Connex*, 235 F.Supp.3d at 832–833, 839 (ordering deposition of trial counsel Charles Tadlock).

Verna’s Motion does not cite any case law or Federal Rules justifying quashing this motion. Rather, Verna simply relies on attorney argument that the deposition “is a fishing expedition designed to harass Ramey and Ramey LLP.” (Mot. at 2.) This is not the case, and Alert Media explained its basis for this deposition before Verna filed its Motion. Verna has not responded to any of Alert Media’s points. (Ex. 3, Email fr Conrad to Ramey re Rule 11 Notice.)

For the foregoing reasons, Alert Media respectfully requests that the Court deny Plaintiff’s Motion to Quash Notice of Deposition of William P. Ramey, III.

Dated: October 30, 2023

Respectfully submitted,

FISH & RICHARDSON P.C.

By: /s/ Neil J. McNabnay

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**ATTORNEYS FOR DEFENDANT
ALERT MEDIA, INC.**

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing document has been served on October 30, 2023, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

/s/ Neil J. McNabnay

Neil J. McNabnay